

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE APPLICATION OF STELLAR	)	
PIPELINE COMPANY TO CONSTRUCT,	)	CASE NO.
OWN AND OPERATE INTRASTATE	)	89-310
NATURAL GAS PIPELINE	)	

O R D E R

This matter arising upon petition of Stellar Pipeline Company ("Stellar Pipeline") filed October 26, 1989 pursuant to 807 KAR 5:001, Section 7, for confidential protection of the estimated cost of constructing a pipeline and fees for transporting gas through its pipeline, on the grounds that disclosure of the information will cause Stellar Pipeline competitive injury, and it appearing to this Commission as follows:

Stellar Pipeline has entered into an agreement to transport gas to the brick manufacturing facility of Louisville Fire Brick Works Inc. near Grahn, Kentucky. In conjunction with that agreement, Stellar Pipeline proposes to construct, own, and operate approximately 4,000 feet of three inch pipeline to transport the gas from a receipt point in Carter County, Kentucky, to the manufacturing facility. The petition requests that the rates to be charged for transporting the gas, specified in the contract, be treated as confidential and not publicly disclosed.

Under the terms of the contract each party has agreed not to disclose the terms of the agreement to a third party. However,

Louisville Fire Brick Works, Inc. is not precluded from obtaining the same or identical services from other pipeline companies and Stellar Pipeline presumably contends that disclosure of the information sought to be protected could be used by its competitors to formulate competing bids.

The petition also requests that the estimated cost of constructing the pipeline be treated as confidential on the same grounds.

807 KAR 5:001, Section 7, protects information as confidential when it is established that disclosure will result in competitive injury to the person from whom the information is obtained. Competitive injury occurs when disclosure of the information is likely to cause substantial harm to the competitive position of the person possessing the information.

By this petition, Stellar Pipeline seeks to protect as confidential the price it intends to charge one customer for its services. While competitors could use this information to price their own services, knowledge of such information in an open market would not impair Stellar Pipeline's ability to compete and would not give its competitors an unfair advantage. Hence, this information should not be treated as confidential. No reason is given for protecting the cost of constructing the pipeline; neither then, should this information be protected as confidential.

This Commission being otherwise sufficiently advised,

IT IS ORDERED that:

1. The petition by Stellar Pipeline for confidential protection of the transportation fees agreed upon in the contract between Stellar Pipeline and Louisville Fire Brick Works Inc. and the estimated cost of constructing a pipeline to serve that contract, be and is hereby denied.

2. The information shall be held and retained by this Commission as confidential for a period of five working days from the date of this Order, at the expiration of which it shall be filed in the public record.

Done at Frankfort, Kentucky, this 8th day of December, 1989.

PUBLIC SERVICE COMMISSION

  
Chairman

  
Vice Chairman

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Commissioner

ATTEST:

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Executive Director